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August 28, 2017

Honorable Nicholas G. Garaufis
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Starke v. SquareTrade, Inc.*
Docket No. 16-CV-7036 (NGG) (SMG)

Dear Judge Garaufis:

We represent Defendant SquareTrade, Inc. ("SquareTrade"). We write pursuant to the Court's Individual Rule III(A)(2) to request a Pre-Motion Conference in this matter.

SquareTrade intends to file a motion to dismiss the second and third claims for relief in Plaintiff's Complaint. Plaintiff's second claim--for violation of the federal Magnuson Moss Warranty Act (the "Warranty Act")--is defective because the provisions of the Warranty Act on which Plaintiff relies apply only to "written warranties," not to the "service contracts" that Defendant sells. Plaintiff's third claim--for unjust enrichment--is defective because it is not pled with the requisite specificity, including, critically, as to which state's common law purportedly governs this claim. To the extent Plaintiff is relying on New York law, the claim is entirely duplicative of his claim under the New York Deceptive Acts and Practices statute and, as such, is barred. To the extent Plaintiff purports to bring the claim under the laws of some other state, Plaintiff lacks standing with respect to such claim.

SquareTrade's deadline for responding to the Complaint in this matter is August 31, 2017. Defendant requests an extension of this deadline until after the required Pre-Motion Conference. Counsel for all parties will be before the Court on September 6, 2017, at 3:00pm for a Pre-Motion Conference on SquareTrade's Motion for Stay Pending Appeal in connection with SquareTrade's pending appeal of the Court's order denying SquareTrade's Motion to Compel Arbitration and Stay Action. We would request the opportunity to discuss with the Court SquareTrade's motion to dismiss at the Pre-Motion Conference currently scheduled for September 6, 2017.



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We appreciate the Court's consideration.

Respectfully Submitted,

/s/ Anthony D. Boccanfuso

Anthony D. Boccanfuso

cc: All Counsel of Record (via ECF)